

1 HERRERA KENNEDY LLP  
2 Shawn M. Kennedy (SBN 218472)  
skennedy@herrerakennedy.com  
3 Bret D. Hembd (SBN 272826)  
bhembd@herrerakennedy.com  
4 4590 MacArthur Blvd., Suite 500  
Newport Beach, CA 92660  
5 Tel: (949) 936-0900  
Fax: (855) 969-2050

7 HERRERA KENNEDY LLP  
8 Nicomedes Sy Herrera (SBN 275332)  
nhererra@herrerakennedy.com  
9 Laura E. Seidl (SBN 269891)  
lseidl@herrerakennedy.com  
10 1300 Clay Street, Suite 600  
Oakland, CA 94612  
11 Tel: (510) 422-4700  
Fax: (855) 969-2050

13 LIEFF CABRASER HEIMANN &  
BERNSTEIN, LLP  
14 Rachel Geman (Pro Hac Vice)  
rgeman@lchb.com  
15 250 Hudson Street, 8th Floor  
New York, NY 10013-1413  
16 Tel: (212) 355-9500  
Fax: (212) 355-9592

18 *Co-Lead Class Counsel*

19 [Additional counsel on signature page]

20 UNITED STATES DISTRICT COURT  
21 NORTHERN DISTRICT OF CALIFORNIA  
22 OAKLAND DIVISION

22 IN RE PLAID INC. PRIVACY  
23 LITIGATION

25 THIS DOCUMENT RELATES TO:  
26 ALL ACTIONS

27 LIEFF CABRASER HEIMANN &  
BERNSTEIN, LLP  
28 Michael W. Sobol (SBN 194857)  
msobol@lchb.com  
Melissa Gardner (SBN 289096)  
mgardner@lchb.com  
Michael K. Sheen (SBN 288284)  
msheen@lchb.com  
Nicholas R. Hartmann (SBN 301049)  
nhartmann@lchb.com  
275 Battery Street, 29th Floor  
San Francisco, CA 94111-3339  
Tel: (415) 956-1000  
Fax: (415) 956-1008

BURNS CHAREST LLP  
Christopher J. Cormier (Pro Hac Vice)  
ccormier@burnscharest.com  
4725 Wisconsin Avenue, NW, Suite 200  
Washington, DC 20016  
Tel: (202) 577-3977  
Fax: (469) 444-5002

Master Docket No.: 4:20-cv-03056-DMR

**PLAINTIFFS' MOTION FOR ATTORNEYS'  
FEES, REIMBURSEMENT OF EXPENSES,  
AND PLAINTIFF SERVICE AWARDS**

Date: May 12, 2022  
Time: 1:00 p.m.  
Courtroom: *Via videoconference only*  
Judge: The Hon. Donna M. Ryu

**TABLE OF CONTENTS**

	<b>Page</b>
I. INTRODUCTION.....	1
II. BACKGROUND .....	1
A. Pre-Litigation Investigation.....	2
B. Litigation Before this Court.....	2
C. Mediation and Settlement .....	3
D. The Relief Obtained for the Class.....	4
III. ARGUMENT.....	5
A. Class Counsel's Requested Fees are Reasonable and Appropriate .....	5
B. The Requested Reimbursement of Expenses is Reasonable and Appropriate .....	17
C. The Requested Service Awards Are Reasonable and Appropriate .....	17
IV. CONCLUSION .....	18

## **TABLE OF AUTHORITIES**

Page	
2	<b>CASES</b>
3	<i>Abante Rooter &amp; Plumbing v. Pivotal Payments</i> ,
4	No. 3:16-cv-05486-JCS, 2018 WL 8949777 (N.D. Cal. Oct. 15, 2018) ..... 16
5	<i>Cruz v. Sky Chefs, Inc.</i> , No. 12-270, 2014 WL 7247065 (N.D. Cal. Dec. 19, 2014)..... 14
6	<i>Beckman v. KeyBank, N.A.</i> , 293 F.R.D. 467 (S.D.N.Y. 2013) ..... 17
7	<i>Blum v. Stenson</i> , 465 U.S. 886 (1984) ..... 15
8	<i>Campbell v. Facebook Inc.</i> ,
9	No. 13-05996, 2017 WL 3581179 (N.D. Cal. Aug. 18, 2017) ..... 16
10	<i>Carlotti v. Asus Comput. Int'l</i> ,
11	No. 18-CV-03369-DMR, 2020 WL 3414653 (N.D. Cal. June 22, 2020)..... 15
12	<i>Congdon v. Uber Techs., Inc.</i> ,
13	No. 16-02499, 2019 WL 2327922 (N.D. Cal. May 31, 2019)..... 17
14	<i>Craft v. Cty. of San Bernardino</i> , 624 F. Supp. 2d 1113 (C.D. Cal. 2008) ..... 16
15	<i>de Mira v. Heartland Emp't Serv., LLC</i> ,
16	No. 12-4092, 2014 WL 1026282 (N.D. Cal. Mar. 13, 2014)..... 13
17	<i>Dyer v. Wells Fargo Bank, N.A.</i> , 303 F.R.D. 326 (N.D. Cal. 2014)..... 16
18	<i>Fowler v. Wells Fargo Bank</i> ,
19	No. 17-02092, 2019 WL 330910 (N.D. Cal. Jan. 25, 2019)..... 17
20	<i>Garner v. State Farm Mut. Auto. Ins. Co.</i> ,
21	No. 8-1365, 2010 WL 1687832 (N.D. Cal. Apr. 22, 2010)..... 6
22	<i>Hefler v. Wells Fargo &amp; Co.</i> ,
23	No. 16-CV-05479-JST, 2018 WL 6619983 (N.D. Cal. Dec. 18, 2018) ..... 16
24	<i>Hensley v. Eckerhart</i> , 461 U.S. 424 (1983) ..... 6, 14
25	<i>Hopkins v. Stryker Sales Corp.</i> ,
26	No. 11-cv-2786, 2013 WL 496358 (N.D. Cal. Feb. 6, 2013) ..... 10
27	<i>In re Anthem, Inc. Data Breach Litig.</i> ,
28	No. 15-MD-02617-LHK, 2018 WL 3960068 (N.D. Cal. Aug. 17, 2018) ..... 16, 18

1                   **TABLE OF AUTHORITIES**  
 2                   **(continued)**

	<b>Page</b>
3 <i>In re Bluetooth Headset Prods. Liab. Litig.</i> , 654 F.3d 935 (9th Cir. 2011).....	5, 6, 10, 13
4 <i>In re Capacitors Antitrust Litig.</i> ,	
5              No. 3:17-md-02801-JD, 2020 WL 6544472 (N.D. Cal. Nov. 7, 2020).....	15
6 <i>In re EpiPen (Epinephrine Injection, USP) Marketing, Sales Practices and Antitrust Litig.</i> ,	
7              MDL No. 2785, 2021 WL 5369798 (D. Kan. Nov. 17, 2021).....	15
8 <i>In re Hyundai &amp; Kia Fuel Econ. Litig.</i> , 926 F.3d 539 (9th Cir. 2019) .....	5
9 <i>In re Intuit Data Litig.</i> ,	
10          No. 15-CV-1778-EJD-SVK, 2019 WL 2166236 (N.D. Cal. May 15, 2019) .....	16
11 <i>In re Lenovo Adware Litig.</i> , 2019 WL 1791420 (N.D. Cal. Apr. 24, 2019).....	13
12 <i>In re LinkedIn User Privacy Litig.</i> , 309 F.R.D. 573 (N.D. Cal. 2015) .....	13
13 <i>In re Lithium Ion Batteries Antitrust Litig.</i> , 2019 WL 3856413 (N.D. Cal Aug. 16, 2019) .....	13
14 <i>In re Media Vision Tech. Sec. Litig.</i> , 913 F. Supp. 1362 (N.D. Cal. 1996) .....	17
15 <i>In re Mego Fin. Corp. Sec. Litig.</i> , 213 F.3d 454 (9th Cir. 2000).....	13, 18
16 <i>In re Omnivision Techs., Inc.</i> , 559 F. Supp. 2d 1036 (N.D. Cal. 2008).....	6, 10, 12
17 <i>In re Restasis (Cyclosporine Ophthalmic Emulsion) Antitrust Litig.</i> ,	
18              No. 18-MD-2819 (NG) (LB), 2020 WL 6193857 (E.D.N.Y. Oct. 6, 2020).....	15
19 <i>In re Volkswagen “Clean Diesel” Mktg., Sales Practices, &amp; Prods. Liab. Litig.</i> ,	
20              No. 2672 CRB (JSC), 2017 WL 1047834 (N.D. Cal. Mar. 17, 2017).....	16
21 <i>In re Washington Pub. Power Supply Sys. Sec. Litig.</i> , 19 F.3d 1291 (9th Cir. 1994).....	5, 10
22 <i>In re: High-tech Emp. Antitrust Litig.</i> ,	
23              No. 11-2509, 2014 WL 10520478 (N.D. Cal. May 16, 2014).....	18
24 <i>Knight v. Red Door Salons, Inc.</i> ,	
25              No. 8-1520, 2009 WL 248367 (N.D. Cal. Feb. 2, 2009) .....	6, 13
26 <i>Krakauer v. Dish Network, L.L.C.</i> ,	
27              No. 1:14-CV-333, 2018 WL 6305785 (M.D.N.C. Dec. 3, 2018) .....	16
28 <i>Linney v. Cellular Alaska P’ship</i> ,	
No. 96-3008, 1997 WL 450064 (N.D. Cal. July 18, 1997).....	7

## **TABLE OF AUTHORITIES (continued)**

Page		
2	<i>Lusby v. GameStop Inc.</i> ,	
4	No. 12-3783, 2015 WL 1501095 (N.D. Cal. Mar. 31, 2015)..... 13	
5	<i>Mendoza v. Hyundai Motor Co., Ltd.</i> ,	
6	No. 15-cv-01685-BLF, 2017 WL 342059 (N.D. Cal. Jan. 23, 2017) ..... 5	
7	<i>Moreno v. Cap. Bldg. Maint. &amp; Cleaning Servs.</i> ,	
8	No. 19-CV-07087-DMR, 2021 WL 4133860 (N.D. Cal. Sep. 10, 2021)..... 15	
9	<i>Paul, Johnson, Alston &amp; Hunt v. Grauity</i> , 886 F.2d 268 (9th Cir. 1989) ..... 14, 17	
10	<i>Perkins v. LinkedIn Corp.</i> ,	
11	No. 13-cv-04303, 2016 WL 613255 (N.D. Cal. Feb. 16, 2016) ..... 16	
12	<i>Rhom v. Thumbtack, Inc.</i> ,	
13	No. 16-02008, 2017 WL 4642409 (N.D. Cal. Oct. 17, 2017) ..... 18	
14	<i>Rieckborn v. Velti PLC</i> , No. 13-3889, 2015 WL 468329 (N.D. Cal. Feb. 3, 2015) ..... 13	
15	<i>Rodriguez v. W. Publ'g Corp.</i> , 563 F.3d 948 (9th Cir. 2009)..... 17	
16	<i>Staton v. Boeing Co.</i> , 327 F.3d 938 (9th Cir. 2003)..... 7, 17	
17	<i>Steiner v. Am. Broadcasting Co.</i> , 248 F. App'x 780 (9th Cir. 2007)..... 16	
18	<i>Sullivan v. DB Invs., Inc.</i> , 667 F.3d 273 (3d Cir. 2011)..... 18	
19	<i>Valentine v. NebuAd Inc.</i> ,	
20	No. C 08-05113 TEH (LB), 2011 WL 13244509 (N.D. Cal. Nov. 21, 2011) ..... 13	
21	<i>Vizcaino v. Microsoft Corp.</i> , 290 F.3d 1043 (9th Cir. 2002) ..... <i>passim</i>	
22	<i>Walsh v. Kindred Healthcare</i> ,	
23	No. 11-50, 2013 WL 6623224 (N.D. Cal. Dec. 16, 2013)..... 9	
24	<i>Winterrowd v. Am. Gen. Annuity Ins. Co.</i> , 556 F.3d 815 (9th Cir. 2009)..... 14	
25	<b>STATUTES</b>	
26	18 U.S.C. § 1030..... 3	
27	18 U.S.C. §§ 2701 <i>et seq.</i> ..... 2	
28	Cal. Bus. & Prof. Code §§ 17200 <i>et seq.</i> ..... 2	

1                   **TABLE OF AUTHORITIES**  
2                    **(continued)**

	Page
3 Cal. Penal Code § 502.....	3
4 Cal. Bus. & Prof. Code § 22948 <i>et seq.</i> .....	3
5 Fed. R. Civ. P. 23(h) .....	7

6  
7                   **OTHER AUTHORITIES**

8 California Constitution (Article I, Section I) .....	3
9 Federal Judicial Center, <i>Manual for Complex Litigation</i> (4th ed. 2004).....	7

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

## **NOTICE OF MOTION AND MOTION<sup>1</sup>**

**TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

3           **PLEASE TAKE NOTICE** that on May 12, 2022, at 1:00 p.m., in Oakland, California *via*  
4 videoconference only, before The Honorable Donna M. Ryu, United States Magistrate Judge for  
5 the Northern District of California, Class Counsel Herrera Kennedy LLP (“HK”), Lieff Cabraser  
6 Heimann & Bernstein, LLP (“LCHB”), and Burns Charest LLP (“BC”) will, and hereby do, move  
7 the Court pursuant to Federal Rule of Civil Procedure 23(h) for an order awarding: (1) attorneys’  
8 fees to Class Counsel in the amount of \$14,500,000; (2) reimbursement of litigation expenses of  
9 \$115,920.21; and (3) Service Awards of \$5,000 for each of the eleven Class Representatives in  
10 the Consolidated Amended Class Action Complaint (“CAC”) (Dkt. 61), for a total of \$55,000. As  
11 discussed in the supporting memorandum, the requested awards are fair, reasonable and justified.

This motion is brought pursuant to the Court’s November 19, 2021 Order on Motion for Preliminary Approval of a Class Action Settlement (“Preliminary Approval Order”) (Dkt. 153), paragraphs 22 and 108 of the Agreement, and Federal Rule of Civil Procedure 23(h). The motion is based on this Notice of Motion and the supporting Memorandum of Points and Authorities; the Joint Declaration of Shawn M. Kennedy, Rachel Geman, and Christopher J. Cormier in Support of this motion; papers filed in support of preliminary approval; papers filed in support of final approval; any oral argument by counsel at the hearing before this Court; any papers filed in reply; all other papers and records in this matter; and such other matters as the Court may consider.

<sup>27</sup> <sup>28</sup> <sup>1</sup> Capitalized terms in this notice and the supporting memorandum have the same meanings as in the Class Action Settlement Agreement (the “Agreement” or the “Settlement”) (Dkt. 138-1).

1                   **MEMORANDUM OF POINTS AND AUTHORITIES**

2                   **I.        INTRODUCTION**

3                   Class Counsel negotiated a highly favorable settlement providing substantial cash relief to  
 4                   the Class through a \$58 million Settlement Fund and extensive injunctive relief requiring Plaid to  
 5                   implement wide-ranging business practice changes, delete improperly-collected data, and give  
 6                   consumers more protection and control over their private login information and financial data.  
 7                   Having aggressively investigated and litigated this case on a fully contingent basis for over two  
 8                   years, Class Counsel now move the Court for an award of \$14,500,000 in attorneys' fees, which  
 9                   represents 25% of the Settlement Fund and a multiplier of 3.29 on Class Counsel's lodestar. Class  
 10                  Counsel also respectfully move the Court to award reimbursement of \$115,920.21 in litigation  
 11                  expenses, and Service Awards totaling \$55,000 for the eleven Class Representatives, out of the  
 12                  Settlement Fund.

13                  Plaintiffs' fee request is equal to the Ninth Circuit's benchmark for attorneys' fees in  
 14                  common fund cases: 25% of the fund created for the benefit of the Class. *See Vizcaino v.*  
 15                  *Microsoft Corp.*, 290 F.3d 1043, 1048–49 (9th Cir. 2002). Multiple factors strongly support the  
 16                  reasonableness of the request, including the excellent results achieved at day's end, Class  
 17                  Counsel's vigorous pursuit of novel and untested claims, and Class Counsel's willingness to  
 18                  shoulder substantial risks while litigating this action on a purely contingent basis. The requested  
 19                  fees also are squarely within the accepted range of comparable cases and are further justified by a  
 20                  lodestar cross-check.

21                  For those reasons, and as discussed in detail below, Plaintiffs respectfully move the Court  
 22                  to grant their fee and expense request and approve the requested Service Awards.

23                   **II.      BACKGROUND**

24                  Plaid provides a service used by a variety of mobile and web-based applications  
 25                  ("apps")—such as apps that allow users to transfer money—to connect to their users' financial  
 26                  accounts. Plaintiffs allege that, in connection with this process, Plaid misled and violated Class  
 27                  Members' privacy by obtaining data from their financial accounts without authorization, and by  
 28                  obtaining their bank login information through Plaid's user interface (known as "Plaid Link"),

1 which Plaintiffs allege was designed to have the look and feel of a user's own bank account login  
 2 screen. (See CAC ¶¶ 37–40.)

3       The following is a brief summary of Class Counsel's considerable efforts in investigating  
 4 and litigating this action on behalf of the Class, as well as the terms of the Settlement that resulted  
 5 from those efforts.<sup>2</sup>

6       **A. Pre-Litigation Investigation**

7       Beginning in January 2020, Class Counsel undertook substantial efforts to investigate  
 8 Plaid's actions and potential claims on behalf of the Class. Over the course of several months,  
 9 Class Counsel meticulously discovered and gathered information about Plaid's historical and  
 10 current business practices, as well as the nature of its software and the privacy violations at issue,  
 11 including by locating and reviewing numerous videos, message board posts, web pages,  
 12 submissions to government regulators, podcasts, marketing materials, articles, and other  
 13 publications. (August 5, 2021 Declaration of Shawn M. Kennedy ("Kennedy Decl.") ¶ 4 (Dkt.  
 14 138).) In addition, Class Counsel engaged a consultant to analyze Plaid's software and better  
 15 understand the software templates provided to Plaid clients and the security issues involved in  
 16 transmitting login information through Plaid Link. (*Id.*)

17       **B. Litigation Before this Court**

18       Class Counsel's investigation culminated in the original complaint filed in this action on  
 19 May 4, 2020, *Cottle et al. v. Plaid Inc.*, No. 4:20-cv-03056-DMR (the "Cottle Action"). On July  
 20 29, 2020, the Court consolidated the Cottle Action with four related actions (collectively, the  
 21 "Action") and appointed Class Counsel as interim class counsel. (Dkts. 51, 57.) On August 5,  
 22 2020, consolidated Plaintiffs filed the CAC in the Action. (Dkt. 61.)

23       On September 14, 2020, Plaid moved to dismiss the CAC. (Dkt. 78.) On April 30, 2021,  
 24 the Court granted in part Plaid's motion, dismissing with prejudice Plaintiffs' claims for  
 25 declaratory and injunctive relief and their claims under the Stored Communications Act, 18  
 26 U.S.C. §§ 2701 *et seq.*; Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200 *et seq.*;

---

28       <sup>2</sup> These items are discussed in more detail in Plaintiffs' accompanying Motion for Final Approval.

1 Computer Fraud and Abuse Act, 18 U.S.C. § 1030; and Computer Data and Access Fraud Act,  
 2 Cal. Penal Code § 502, and sustaining Plaintiffs' invasion of privacy/intrusion into private affairs  
 3 and unjust enrichment claims for a nationwide class, as well as their claims for deceit, violations  
 4 of California Constitution (Article I, Section I), and violations of California's Anti-Phishing Act  
 5 of 2005 ("CAPA"), Cal. Bus. & Prof. Code § 22948 *et seq.* for a California class. (Dkt. 125.)

6 Plaintiffs sought and received significant discovery from Plaid both before and during  
 7 settlement discussions. Plaintiffs then sought and received confirmatory discovery after reaching  
 8 agreement on settlement terms with Plaid. Class Counsel served—and Plaid responded to—57  
 9 document requests, 21 interrogatories, and 51 requests for admissions. (Kennedy Decl. ¶ 7.)  
 10 Plaintiffs also commenced third-party discovery, having subpoenaed and started discussions with  
 11 certain banks. (*Id.*) Discovery issues were highly contested and resulted in numerous telephonic  
 12 and written meet-and-confers over the course of the Action. (*Id.* ¶¶ 5–9.)

13 In response to formal and informal discovery requests, Plaid provided information,  
 14 internal documents, and data concerning the nature and function of Plaid's software and business  
 15 practices during the class period, Plaid's finances, and the size and scope of the putative class,  
 16 among other things. (*Id.* ¶ 6.) This allowed Class Counsel to negotiate a fully-informed settlement  
 17 maximizing the financial recovery available to the Class and providing important injunctive relief  
 18 designed to remediate the practices underlying the alleged misconduct going forward, while  
 19 avoiding litigation risks that were brought to light since the case began.

20 **C. Mediation and Settlement**

21 Between February and July 2021, the Parties engaged in lengthy and contentious arm's-  
 22 length negotiations to resolve the claims in the Action. (Kennedy Decl. ¶ 10.) On February 16,  
 23 2021, the Parties engaged in a full-day mediation session with the Hon. Jay Gandhi (ret.). (*Id.*)  
 24 Prior to the mediation, the Parties prepared detailed mediation briefs outlining their positions on  
 25 the strengths and weaknesses of the case and participated in a technology tutorial session with  
 26 Judge Gandhi. (*Id.*) The Parties went into the mediation with substantially different positions  
 27 relating to appropriate settlement terms and did not resolve the Action at the initial mediation. (*Id.*  
 28 ¶ 11.) For the next several months, while the Parties continued to litigate, they continued to

1 engage in the mediation process with Judge Gandhi, who helped bridge the gap between the  
 2 Parties' positions. (*Id.* ¶ 12.) These negotiations included another mediation session on April 13,  
 3 2021. (*Id.* ¶ 13.)

4 On June 7, 2021, Judge Gandhi made a mediator's proposal for a class-wide settlement of  
 5 \$58 million subject to the Parties' negotiation of, and agreement to, appropriate injunctive relief.  
 6 Judge Gandhi's recommendation was accepted by all Parties in a double-blind process on June  
 7 11, 2021. (*Id.* ¶ 14.) Over the next six weeks, the Parties negotiated the terms of a long-form  
 8 settlement agreement, including various types of significant injunctive relief. (*Id.*) These  
 9 negotiations resulted in the Agreement, which was executed on July 30, 2021. (*Id.* ¶ 14 &  
 10 Agreement.)

11 **D. The Relief Obtained for the Class**

12 The Settlement provides two independently valuable sources of relief to the Class:

13 **First**, the Settlement creates a non-reversionary \$58 million cash fund. Class Members  
 14 will receive a claims-made *pro rata* payment after the deduction of settlement-related costs,  
 15 including the expenses of the settlement administrator and the costs of notice to the Class, Service  
 16 Awards, attorneys' fee award and expense reimbursements, and any other costs approved by the  
 17 Court. (Agreement ¶¶ 71–78.)

18 **Second**, the Agreement includes robust injunctive relief addressing the complained-of  
 19 conduct. Plaid has agreed to implement meaningful business practice changes designed to  
 20 remediate alleged privacy violations, improve user control, and safeguard consumer privacy,  
 21 including by: (1) deleting certain transaction data from its systems; (2) informing Class Members  
 22 of their ability to manage the connections made between their financial accounts and chosen  
 23 applications using Plaid and to delete their data stored in Plaid's systems; (3) continuing to  
 24 include certain disclosures and features in Plaid Link; (4) minimizing the data Plaid stores;  
 25 (5) enhancing disclosures in Plaid's End User Privacy Policy about the categories of data Plaid  
 26 collects, how Plaid uses data, and privacy controls Plaid has made available to users; and  
 27 (6) continuing to host a dedicated webpage with detailed information about Plaid's security

28

1 practices.<sup>3</sup> (Agreement ¶¶ 53–70.)

### 2 **III. ARGUMENT**

3 Plaintiffs seek attorneys' fees for Class Counsel in the amount of 25% of the Settlement  
 4 Fund, reimbursement of Class Counsel's litigation expenses, and Service Awards of \$5,000 for  
 5 each of the eleven Class Representatives. As discussed below, Plaintiffs' fee request is reasonable  
 6 under any applicable standard, especially given the outstanding relief obtained for the Class.  
 7 Similarly, Class Counsel's expenses were necessary to litigate this action, and the Service Awards  
 8 properly compensate the Class Representatives for their role in reaching this Settlement.

#### 9 **A. Class Counsel's Requested Fees are Reasonable and Appropriate**

10 In common fund cases such as this one, the guiding principle is “the equitable notion that  
 11 those who benefit from the creation of the fund should share the wealth with the lawyers whose  
 12 skill and effort helped create it.” *In re Washington Pub. Power Supply Sys. Sec. Litig.*, 19 F.3d  
 13 1291, 1300 (9th Cir. 1994). The Court has discretion to award attorneys' fees either as a  
 14 percentage of the common fund or based upon Class Counsel's lodestar. *In re Hyundai & Kia*  
 15 *Fuel Econ. Litig.*, 926 F.3d 539, 570 (9th Cir. 2019). In the Ninth Circuit, the benchmark for a  
 16 reasonable fee award as a percentage of the common fund is 25%. *In re Bluetooth Headset Prods.*  
 17 *Liab. Litig.*, 654 F.3d 935, 942 (9th Cir. 2011). Courts may also cross-check a fee award by using  
 18 both methods. *See Mendoza v. Hyundai Motor Co., Ltd*, No. 15-cv-01685-BLF, 2017 WL  
 19 342059, at \*14 (N.D. Cal. Jan. 23, 2017).

20 Here, Class Counsel seek fees equal to the benchmark, or 25% of the \$58,000,000  
 21 Settlement Fund, without accounting for the independent value of the Settlement's substantial  
 22 injunctive relief. This request is reasonable, particularly in light of Ninth Circuit law regarding  
 23 attorneys' fees in class cases that is designed to ensure that counsel have proper incentives to take  
 24 on difficult cases and pursue class members' best interests. *See Washington Pub. Power Supply*,  
 25 19 F.3d at 1299. Class Counsel respectfully submit that, in light of the excellent results reached

---

26  
 27 <sup>3</sup> See also Preliminary Approval Order at 6-8, 20 (describing “the robust injunctive relief that will  
 28 benefit the class, including Plaid's deletion of Class Members' data where the connected  
 application did not request the data and for users for whom Plaid no longer has valid means to  
 authenticate with the financial institution”).

1 by Class Counsel in the Settlement, their successful work in prosecuting novel and untested  
 2 claims on a pure contingency basis in this action, and the significant risks undertaken in the  
 3 process, application of the benchmark percentage is eminently reasonable.

4 Class Counsel's fee request also is well supported by a lodestar cross-check because it  
 5 represents a lodestar multiplier of 3.29 at Class Counsel's customary hourly rates, which is well  
 6 within the range for such multipliers established by the Ninth Circuit. *See Vizcaino*, 290 F.3d at  
 7 1051 & n.6.

8           **1. The Request Is Warranted Under the Percentage-of-the-Fund Method**

9           The Ninth Circuit's benchmark fee in a common fund case is 25% of the fund created.  
 10 *Vizcaino*, 290 F.3d at 1047. A court should depart from the benchmark only if there are "special  
 11 circumstances" justifying the departure. *Bluetooth*, 654 F.3d at 942 (citations omitted). In fact,  
 12 courts in the Ninth Circuit often award fees that exceed the 25% benchmark. *See, e.g., Vizcaino*,  
 13 290 F.3d at 1050 (affirming 28% award); *In re Omnivision Techs., Inc*, 559 F. Supp. 2d 1036,  
 14 1047 (N.D. Cal. 2008) ("[I]n most common fund cases, the award exceeds that [25%]  
 15 benchmark."); *Garner v. State Farm Mut. Auto. Ins. Co.*, No. 8-1365, 2010 WL 1687832, at \*18  
 16 (N.D. Cal. Apr. 22, 2010) (granting 30% award); *Knight v. Red Door Salons, Inc.*, No. 8-1520,  
 17 2009 WL 248367, at \*7 (N.D. Cal. Feb. 2, 2009) (same). As a result, as this Court noted, Class  
 18 Counsel's request for 25% of the Settlement Fund is "presumptively reasonable." (Preliminary  
 19 Approval Order at 28.)

20           Courts in the Ninth Circuit consider a number of factors in determining whether there is  
 21 any basis to deviate from the benchmark, including: (a) the results achieved; (b) the risks of  
 22 contingency representation; (c) the complexities of the case and skill and effort required of  
 23 counsel; and (d) awards in similar cases. *See Vizcaino*, 290 F.3d at 1048–50. These factors  
 24 confirm that there is no basis for a downward departure from the benchmark.

25           **a. Class Counsel Achieved an Outstanding Result**

26           The "most critical factor" in the Court's analysis is the strength of the result achieved by  
 27 Class Counsel in the Settlement. *See Hensley v. Eckerhart*, 461 U.S. 424, 436 (1983);  
 28 *Omnivision*, 559 F. Supp. 2d at 1046; *see also* Federal Judicial Center, *Manual for Complex*

1        *Litigation*, § 21.71, p. 336 (4th ed. 2004) (the “fundamental focus is the result actually achieved  
 2 for class members”) (citing Fed. R. Civ. P. 23(h) committee note). The sizeable monetary relief  
 3 provided to the Class in the Settlement Fund alone is sufficient to show the strength of the result  
 4 achieved in the Settlement. But when the Court further considers the wide-ranging injunctive  
 5 relief to which Plaid is bound under the Agreement, the conclusion is clear: the Settlement is an  
 6 outstanding result for the Class that amply supports the reasonableness of the requested fees.

7            **Monetary Relief:** The Settlement requires Plaid to pay \$58,000,000 into a non-  
 8 reversionary Settlement Fund. As this Court noted, based upon the estimated size of the Class and  
 9 the anticipated claims rate, Class Members stand to receive approximately \$10 to \$39 per person.  
 10 (Preliminary Approval Order at 20.) The Settlement Fund not only is objectively large for a  
 11 privacy class action where the Class Members had no out-of-pocket damages, but it also  
 12 “compares favorably with other settlements that have been approved in privacy cases in this  
 13 district.” (*Id.* at 21 (collecting cases).)

14            **Injunctive Relief:** The Settlement also provides robust injunctive relief that will benefit  
 15 the Class going forward. Where, as here, a settlement achieves significant benefits that are not  
 16 accounted for in the dollar value of the common settlement fund, the court “should consider the  
 17 value of [such] relief obtained as a ‘relevant circumstance’ in determining what percentage of the  
 18 common fund class counsel should receive as attorneys’ fees.” *Staton v. Boeing Co.*, 327 F.3d  
 19 938, 974 (9th Cir. 2003); *see also Vizcaino*, 290 F.3d at 1049 (affirming enhanced fee award  
 20 where “the court found that counsel’s performance generated benefits beyond the cash settlement  
 21 fund”); *Linney v. Cellular Alaska P’ship*, No. 96-3008, 1997 WL 450064, at \*7 (N.D. Cal. July  
 22 18, 1997), *aff’d*, 151 F.3d 1234 (9th Cir. 1998) (granting fee award of one-third of common fund  
 23 where settlement provided additional non-monetary relief).

24            The following injunctive relief provisions highlight the great value the Settlement  
 25 provides to the Class:

- 26            • Deletion of Data. One of the primary wrongful acts alleged was Plaid’s collection of  
 27 highly detailed consumer banking data as a matter of course when it connected to a  
 28 consumer’s account, regardless of whether the consumer’s app needed or requested that

1 data. (*See* CAC ¶¶ 48–58.) The Settlement provides direct remediation for those wrongs  
 2 by requiring Plaid to delete data it collected when an app did not request that data.  
 3 (Agreement ¶ 63.) It also requires Plaid to delete data for users that Plaid has no means to  
 4 authenticate with the bank. (*Id.*)

- 5 • Data Minimization. Similarly, the Settlement requires Plaid to minimize the data it  
 6 collects and stores from consumers’ financial accounts moving forward: Plaid will collect  
 7 and store only the data that an app specifically requests from Plaid or that is necessary for  
 8 Plaid to offer its services, unless the user expressly consents to the retrieval of additional  
 9 data fields. (Agreement ¶¶ 60–62.)
- 10 • Enhanced Disclosures. Another of the primary wrongful acts complained of in this action  
 11 was Plaid’s allegedly deceptive collection of consumers’ private bank login information  
 12 through the use of screens in its interface that mimicked bank login websites, as well as  
 13 through allegedly insufficient or misleading disclosures. (*See* CAC ¶¶ 32–47.) The  
 14 Settlement directly addresses those issues by requiring Plaid, among other things, to  
 15 explicitly state that users’ credentials are being “provided to Plaid,” to refrain from using  
 16 banks’ color schemes on its login screens, and to include express and conspicuous  
 17 disclosures about Plaid’s role in the account connection process. (Agreement ¶ 56.)
- 18 • Privacy Policy. Similarly, the Settlement requires Plaid to enhance disclosures in its  
 19 privacy policy to provide more detailed information about Plaid’s data collection, storage,  
 20 use, sharing, and deletion practices. (Agreement ¶ 53.)
- 21 • End-User Controls. The Settlement also requires Plaid to provide consumers with  
 22 enhanced controls over the privacy of their banking data and login information. Plaid has  
 23 agreed to provide prominent references to its Plaid Portal, through which consumers,  
 24 including Class Members, can view and manage the connections that have been made  
 25 between apps and their financial accounts using Plaid. Importantly, Class Members can  
 26 also delete their financial data stored in Plaid’s systems. (Agreement ¶¶ 58–59.)

27 Class members and other consumers across the country will substantially benefit from this  
 28 injunctive relief, especially given the ubiquity of Plaid’s software in the fintech universe.

If the value of these benefits were considered, it would “reduce[] the overall percentage of fees” that Class Counsel is requesting. *Walsh v. Kindred Healthcare*, No. 11-50, 2013 WL 6623224, at \*3 (N.D. Cal. Dec. 16, 2013) (approving fee request of 30% of the common fund; finding that the request was effectively reduced by the “substantial injunctive relief” obtained through the settlement). Class Counsel respectfully submit that the Settlement’s monetary and injunctive relief both provide strong support for their fee request.

**b. This Action Entailed Significant Risk**

As this Court concluded in preliminarily approving the Settlement, there is “significant risk to individual and class recovery if the case were to proceed further in litigation,” including risks related to certifying a class of tens of millions of consumers who used different apps and different financial institutions, where there were differences in those actors’ practices and disclosures over time. (Preliminary Approval Order at 18–19.) There also was significant risk that Plaid would prevail on the merits at any stage of litigation, perhaps most notably in relation to Plaintiffs’ claim for violations of the “relatively untested” CAPA statute, which is the sole remaining claim with statutory damages. (*Id.* at 19.) Class Counsel pursued claims under CAPA in the absence of clear guidance on issues such as whether the statute applies to business activities like Plaid’s and whether Class Members were “adversely affected” by Plaid’s practices within the meaning of the statute.

This action entailed additional risk for Class Counsel because, unlike many class actions, this case did not result from the public revelation of a data breach, government investigation, or similar event. In those latter scenarios, class counsel typically bear a lower risk because they do not carry the burden of investigating all the facts, and because public pressure from news of the event frequently provides additional incentive for the defendant to settle a parallel class action. In this case, however, Class Counsel detected and investigated Plaid’s actions themselves, including retaining a consultant to assist with understanding various aspects of Plaid’s technology. (See Joint Declaration of Shawn M. Kennedy, Rachel Geman, and Christopher J. Cormier In Support of Plaintiffs’ Motion for Attorneys’ Fees, Reimbursement of Expenses, and Plaintiff Service Awards, filed concurrently herewith (“Joint Decl.”) ¶¶ 6–8.) Class Counsel then came up with

1 novel claims based on the fruits of their investigation, all of which led to the filing of the Action  
 2 and, ultimately, the favorable Settlement. In short, this was an exceptionally risky action for Class  
 3 Counsel to pursue, further underscoring the reasonableness of the fee request. *See Bluetooth*, 654  
 4 F.3d at 942 (the “complexity and novelty of the issues presented” may enhance the  
 5 reasonableness of the fee request). Class Counsel also submit that in cases like this where alleged  
 6 wrongdoing that may have otherwise remained hidden is uncovered and remedied by counsel’s  
 7 independent investigation, the Court should not hesitate to appropriately award counsel for  
 8 providing an important public service.

9                   **c.        Compensation was 100% Contingent on the Outcome**

10                  The public is served by rewarding attorneys who assume representation of their interests  
  11 on a contingent basis with an enhanced fee to compensate them for the risk that they might be  
  12 paid nothing for their work. *See Washington Pub. Power Supply*, 19 F.3d at 1299 (“Contingent  
  13 fees that may far exceed the market value of the services if rendered on a non-contingent basis are  
  14 accepted in the legal profession as a legitimate way of assuring competent representation for  
  15 plaintiffs who could not afford to pay on an hourly basis regardless whether they win or lose.”);  
  16 *Vizcaino*, 290 F.3d at 1051. Class Counsel prosecuted this case on a purely contingent basis and  
  17 agreed to advance all necessary expenses, to the exclusion of other fee-generating work, knowing  
  18 that they would receive a fee and be reimbursed their expenses only if they obtained meaningful  
  19 relief on a class-wide basis. (Joint Decl. ¶ 49.) In so doing, Class Counsel faced a well-funded  
  20 corporate defendant who hired preeminent, experienced law firms to mount a vigorous defense.  
  21 This factor likewise supports Class Counsel’s fee request. *See Hopkins v. Stryker Sales Corp.*, No.  
  22 11-cv-2786, 2013 WL 496358, at \*3 (N.D. Cal. Feb. 6, 2013) (finding higher fee award justified  
  23 where “[t]his case was conducted on an entirely contingent fee basis against a well-represented  
  24 Defendant”).

25                   **d.        The Skill and Quality of Work Support the Requested Fees**

26                  The effort and skill displayed by Class Counsel and the complexity of the issues involved  
  27 are additional factors used in determining a proper fee. *Vizcaino*, 290 F.3d at 1048; *Omnivision*,  
  28 559 F. Supp. 2d at 1046–47. Class Counsel here consisted of a team of three law firms led by

1 highly skilled attorneys who were appointed to lead this litigation because of their qualifications,  
 2 experience, and commitment to the prosecution of this case. (See Dkts. 57 & 153.) Class  
 3 Counsel's vigorous advocacy on behalf of the Class involved, among other things:  
 4 (1) discovering the alleged misconduct; (2) investigating Plaid's business practices and the  
 5 Class's potential claims; (3) conducting legal research regarding and opposing Plaid's motion to  
 6 dismiss; (4) opposing Plaid's repeated attempts to stay discovery; (5) engaging in formal  
 7 discovery with Plaid, including a months-long meet and confer process that was necessary to push  
 8 for relevant documents and information; (5) seeking and obtaining valuable informal discovery  
 9 from Plaid; (6) negotiating a favorable settlement following nearly half a year of multiple  
 10 mediation sessions and protracted, arms-length negotiations; and (7) fulfilling Class Counsel's  
 11 various responsibilities under the Settlement, including to seek preliminary and final approval of  
 12 the Settlement, to oversee Notice administration, and to respond to Class Member inquiries. (Joint  
 13 Decl. ¶¶ 6–33, 36–50.)

14 Class Counsel initially demonstrated the skill and quality of their work in the investigation  
 15 of this case and preparation of the original complaint. Over the course of several months, they  
 16 analyzed voluminous, wide-ranging materials and gathered a detailed factual record of Plaid's  
 17 historic and current business practices, software, and disclosures. (Kennedy Decl. ¶ 4; Joint Decl.  
 18 ¶¶ 6–8.) Class Counsel brought to the task not only decades of experience in complex class action  
 19 litigation, but also extensive subject matter knowledge that allowed them to uncover the privacy  
 20 breaches at issue. (Dkts. 51-1, 51-2, 51-3.) That investigation resulted in an 82-page complaint  
 21 replete with detailed allegations and quotations drawn from a host of sources. (Dkt. 1.)

22 The skill and quality of Class Counsel's work was further borne out over the course of  
 23 litigating this action. This was no cookie-cutter case. As discussed above, Class Counsel were  
 24 required to litigate novel and untested legal issues. Through a contentious discovery process, they  
 25 did a deep dive into the nature and function of Plaid's software and business practices, Plaid's  
 26 finances, and issues related to the size and scope of the Class. (Kennedy Decl. ¶ 6; Joint Decl.  
 27 ¶¶ 14–24.) Plaintiffs served and Plaid responded to 57 document requests, 21 interrogatories, and  
 28 51 requests for admission. (Kennedy Decl. ¶ 7.) In response, Plaid produced over 12,000 pages of

1 documents, including internal policies and procedures, agreements, correspondence, investigatory  
 2 materials, client lists, and detailed financial information. (*Id.*) Plaintiffs also commenced third-  
 3 party discovery, having subpoenaed and started discussions with certain banks. (*Id.*) A number of  
 4 discovery-related disputes arose over the course of the litigation. Each was highly contested, and  
 5 over the span of several months, through dozens of written and telephonic communications, the  
 6 parties met and conferred to narrow and reach agreement as to several disputes. (*Id.* ¶ 8; Joint  
 7 Decl. ¶¶ 18–20.) At the same time, Class Counsel worked with the Plaintiffs’ Steering Committee  
 8 to respond to Plaid’s discovery requests to the named Plaintiffs. In anticipation of additional  
 9 requests, Class Counsel also engaged a forensics consultant to properly preserve and analyze the  
 10 data on Plaintiffs’ personal mobile devices. (Kennedy Decl. ¶ 8.) As a result, Class Counsel were  
 11 able to negotiate a fully-informed settlement that both maximizes the financial recovery available  
 12 to the Class and includes robust injunctive relief provisions tailored to remediating the alleged  
 13 wrongful business practices.

14 Moreover, a high degree of competence was required to navigate and protect the critical  
 15 privacy issues in this case. At stake was the privacy and protection of consumers’ personal bank  
 16 login information, as well as consumers’ ability to protect and control the transactional banking  
 17 information that revealed the intimate details of their spending, savings, borrowing, investing, and  
 18 credit histories. Class Counsel’s skill and expertise were pitted against a heavily-resourced  
 19 defendant that had powerful incentives to obtain rulings that were both favorable to its business  
 20 practices and position in the fintech industry, and unfavorable to the privacy rights of consumers.

21 Prosecuting and ultimately favorably resolving this case required the creativity, hard work  
 22 and perseverance of Class Counsel. The end result is proof positive of Class Counsel’s efforts: a  
 23 \$58,000,000 Settlement Fund and sweeping injunctive relief. The skill and expertise reflected in  
 24 this outcome clearly support Class Counsel’s request for benchmark fees.

25                   e. **Fee Awards in Comparable Cases Support the Requested Fees**

26                   A review of fee awards in other common fund cases underscores the reasonableness of the  
 27 fees requested. Indeed, Class Counsel’s requested fees are equal to or less than the fees frequently  
 28 awarded in class actions. *See, e.g. Omnivision*, 559 F. Supp. 2d at 1047 (“in most common fund

cases, the award exceeds that [25%] benchmark.”); *In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d 454, 463 (9th Cir. 2000), *as amended* (June 19, 2000) (affirming fee award of one third of common fund); *In re Lenovo Adware Litig.*, 2019 WL 1791420, \*8 (N.D. Cal. Apr. 24, 2019) (awarding fees of 30% of common fund in privacy class action, and finding “that the percentage requested is consistent with other awards in this district in comparable cases”); *In re LinkedIn User Privacy Litig.*, 309 F.R.D. 573, 590–91 (N.D. Cal. 2015) (awarding fees to class counsel in privacy class action settlement in the amount of “the Ninth Circuit’s established benchmark of 25%” even though “the Court disagrees that this action posed a substantial risk and required significant time and skill to obtain a result for the class”); *Lusby v. GameStop Inc.*, No. 12-3783, 2015 WL 1501095, at \*9 (N.D. Cal. Mar. 31, 2015) (awarding fee of one-third of common fund); *de Mira v. Heartland Emp’t Serv., LLC*, No. 12-4092, 2014 WL 1026282, at \*4 (N.D. Cal. Mar. 13, 2014) (awarding fee of 28% of common fund); *Valentine v. NebuAd Inc.*, No. C 08-05113 TEH (LB), 2011 WL 13244509, at \*2 (N.D. Cal. Nov. 21, 2011) (finding 30% of common fund award for attorneys’ fees warranted in privacy and consumer data case). *Knight*, 2009 WL 248367, at \*7–8 (awarding 30% of common fund).

In light of the foregoing, Class Counsel respectfully submit that their fee request is reasonable and fair under the percentage-of-the-fund method.

## **2. Class Counsel’s Fee Request Is Supported By a LodeStar Cross-Check**

“Because the benefit to the class is easily quantified in common-fund settlements,” the Ninth Circuit permits district courts “to award attorneys a percentage of the common fund in lieu of the often more time-consuming task of calculating the lodestar.” *Bluetooth*, 654 F.3d at 942. Thus, “the primary basis of the fee award remains the percentage method,” with the lodestar used “as a cross-check on the reasonableness of a percentage figure.” *In re Lithium Ion Batteries Antitrust Litig.*, 2019 WL 3856413, at \*7 (N.D. Cal Aug. 16, 2019) (quoting *Vizcaino*, 290 F.3d at 1050 & n.5). As “merely a cross-check on the reasonableness of a percentage figure,” *Vizcaino*, 290 F.3d at 1050 n.5, “[t]he lodestar crosscheck need not entail either mathematical precision or bean counting.” *Rieckborn v. Velti PLC*, No. 13-3889, 2015 WL 468329, at \*21 (N.D. Cal. Feb. 3, 2015) (citation and internal punctuation omitted); *accord Cruz v. Sky Chefs, Inc.*, No. 12-270,

1 2014 WL 7247065, at \*6 (N.D. Cal. Dec. 19, 2014).

2       The lodestar is calculated by multiplying the number of hours reasonably expended on the  
 3 litigation by a reasonable hourly rate. *Hensley*, 461 U.S. at 433; *Paul, Johnson, Alston & Hunt v.*  
 4 *Grauity*, 886 F.2d 268, 272 (9th Cir. 1989). Class Counsel's Joint Declaration sets out the hours  
 5 of work and billing rates used to calculate the lodestar here, including a tabulation of the hours  
 6 spent on various categories of activities related to this action. (Joint Decl. ¶¶ 3–4, 36–47, Exs. A–  
 7 C.)<sup>4</sup> Class Counsel have devoted a total of approximately 5,626.5 hours to this litigation and have  
 8 a total lodestar to date of approximately \$4,394,236. (*Id.* ¶ 3.) These submitted hours do not,  
 9 however, include every hour reported, even by Class Counsel. They do not include timekeepers  
 10 from Class Counsel who billed less than 10 total hours. (*Id.* ¶ 48.) They also do not include time  
 11 from other counsel representing named Plaintiffs, who made contributions to the Action, but  
 12 collectively submitted a relatively small number of hours compared to Class Counsel. (*Id.*) The  
 13 above amounts also do not include the additional time that Class Counsel will spend going  
 14 forward in seeking approval of, and implementing, the Settlement, including responding to  
 15 inquiries from Class Members and overseeing distribution of the Settlement Fund. (*Id.*) Based on  
 16 prior experience, these responsibilities may require a significant further time commitment from  
 17 Class Counsel. (*Id.*) If there are objections to the Settlement and subsequent appeals, those  
 18 commitments and responsibilities may extend for several more years. (*Id.*)

19       The time Class Counsel dedicated to prosecuting this action is reasonable. Class Counsel  
 20 were able to secure a highly favorable settlement, prosecuting the claims at issue efficiently and  
 21 effectively through a hard-fought motion to dismiss, a contentious discovery process, and months  
 22 of settlement negotiations. There should be no real question that the hours expended here were  
 23 necessary.

---

24

25       <sup>4</sup> See *Winterrowd v. Am. Gen. Annuity Ins. Co.*, 556 F.3d 815, 827 (9th Cir. 2009) (“Testimony of  
 26 an attorney as to the number of hours worked on a particular case is sufficient evidence to support  
 27 an award of attorney fees, even in the absence of detailed time records.”) (internal quotations  
 28 omitted); see also Northern District of California Procedural Guidance for Class Action  
 Settlements (“Declarations of class counsel as to the number of hours spent on various categories  
 of activities related to the action by each biller, together with hourly billing rate information may  
 be sufficient, provided that the declarations are adequately detailed.”).

1       Furthermore, Class Counsel's hourly rates are reasonable. Class Counsel are experienced,  
 2 highly regarded members of the bar. (Joint Declaration ¶¶ 54–59, 61–70, 72–75.) They have  
 3 brought to this case extensive experience in consumer class actions and complex litigation, as  
 4 well as subject matter expertise in data privacy and technology. (*Id.*) The Court does not need to  
 5 determine that the exact rates requested by Class Counsel are reasonable, but only that they fall  
 6 within “the range of reasonableness required to use the lodestar figure as a cross check.” *Moreno*  
 7 *v. Cap. Bldg. Maint. & Cleaning Servs.*, No. 19-CV-07087-DMR, 2021 WL 4133860, at \*6 (N.D.  
 8 Cal. Sep. 10, 2021) (citation omitted).

9       In assessing the reasonableness of an attorney's hourly rate, courts consider their  
 10 qualifications, as well as whether the claimed rate is “in line with those prevailing in the  
 11 community for similar services by lawyers of reasonably comparable skill, experience and  
 12 reputation.” *Blum v. Stenson*, 465 U.S. 886, 895 n.11 (1984). This Court has found that similar  
 13 hourly rates as those charged by Class Counsel were appropriate for firms practicing in the  
 14 Northern District. *See Carlotti v. Asus Comput. Int'l*, No. 18-CV-03369-DMR, 2020 WL  
 15 3414653, at \*5 (N.D. Cal. June 22, 2020) (finding that rates of \$900 per hour, \$950 per hour, and  
 16 \$1,025 per hour were reasonable in the Northern District). Courts within this District and  
 17 elsewhere have approved Class Counsel's customary rates at those times. *See* Joint Declaration ¶¶  
 18 60, 71, 76; *In re EpiPen (Epinephrine Injection, USP) Marketing, Sales Practices and Antitrust*  
 19 *Litig.*, MDL No. 2785, 2021 WL 5369798, at \*4–5 (D. Kan. Nov. 17, 2021) (granting requested  
 20 attorney fees representing specified multiplier of hourly rates of Burns Charest and other co-lead  
 21 counsel in class action settlement); *In re Capacitors Antitrust Litig.*, No. 3:17-md-02801-JD,  
 22 2020 WL 6544472, at \*1–2 (N.D. Cal. Nov. 7, 2020) (approving HK partner's fees at prior firm  
 23 as part of total award of \$69.6 million in fees); *In re Restasis (Cyclosporine Ophthalmic*  
 24 *Emulsion) Antitrust Litig.*, No. 18-MD-2819 (NG) (LB), 2020 WL 6193857, at \*5–6 (E.D.N.Y.  
 25 Oct. 6, 2020) (approving HK partner's fees at prior firm as part of total award of \$16.4 million in  
 26 fees); *In re Intuit Data Litig.*, No. 15-CV-1778-EJD-SVK, 2019 WL 2166236, at \*1 (N.D. Cal.  
 27 May 15, 2019) (approving fees based on LCHB rates); *In re Anthem, Inc. Data Breach Litig.*, No.  
 28 15-MD-02617-LHK, 2018 WL 3960068, at \*17 (N.D. Cal. Aug. 17, 2018) (approving fees based

1 on LCHB rates); *Campbell v. Facebook Inc.*, No. 13-05996, 2017 WL 3581179, at \*7 (N.D. Cal.  
 2 Aug. 18, 2017) (granting motion for attorneys’ fees to LCHB in privacy litigation); *In re  
 3 Volkswagen “Clean Diesel” Mktg., Sales Practices, & Prods. Liab. Litig.*, No. 2672 CRB (JSC),  
 4 2017 WL 1047834, at \*5 (N.D. Cal. Mar. 17, 2017) (approving fees based on LCHB rates);  
 5 *Perkins v. LinkedIn Corp.*, No. 13-cv-04303, 2016 WL 613255, at \*15 (N.D. Cal. Feb. 16, 2016)  
 6 (approving LCHB rates and granting motion for attorneys’ fees).

7       The final aspect of the lodestar cross-check is the risk multiplier. Here, the benchmark  
 8 25% fee requested by Class Counsel reflects a multiplier of 3.29 of Class Counsel’s lodestar,  
 9 which “falls within the Ninth Circuit’s presumptively acceptable range of 1.0–4.0.” *Dyer v. Wells  
 10 Fargo Bank, N.A.*, 303 F.R.D. 326, 334 (N.D. Cal. 2014) (citing *Vizcaino*, 290 F.3d at 1051 &  
 11 n.6). Indeed, multipliers within (and even beyond) that “presumptively acceptable” range are  
 12 routinely approved in the Ninth Circuit and elsewhere. *See, e.g.*, *Vizcaino*, 290 F.3d at 1051 & n.6  
 13 (affirming a 3.65 lodestar multiplier and citing appendix of cases showing “a range of 0.6-19.6,  
 14 with most . . . from 1.0-4.0 and a bare majority . . . in the 1.5-3.0 range”); *Hefler v. Wells Fargo  
 15 & Co.*, No. 16-CV-05479-JST, 2018 WL 6619983, at \*13–14 (N.D. Cal. Dec. 18, 2018)  
 16 (approving fee resulting in a lodestar multiplier of 3.22); *Abante Rooter & Plumbing v. Pivotal  
 17 Payments*, No. 3:16-cv-05486-JCS, 2018 WL 8949777, at \*8 (N.D. Cal. Oct. 15, 2018) (affirming  
 18 2.7 lodestar multiplier as “reasonable and well within the range of average lodestars awarded in  
 19 this circuit”); *see also Krakauer v. Dish Network, L.L.C.*, No. 1:14-CV-333, 2018 WL 6305785,  
 20 at \*5–6 (M.D.N.C. Dec. 3, 2018) (approving 4.39 lodestar multiplier and citing approved  
 21 multipliers ranging “from 2 to 4.5,” as well as a list of “54 cases with multipliers over 3.5”).

22       In fact, courts have approved significantly higher lodestar multipliers. *Steiner v. Am.  
 23 Broadcasting Co.*, 248 F. App’x 780, 783 (9th Cir. 2007) (multiplier of 6.85 was “well within the  
 24 range of multipliers that courts have allowed”); *Craft v. Cty. of San Bernardino*, 624 F. Supp. 2d  
 25 1113, 1125 (C.D. Cal. 2008) (noting “ample authority” for a multiplier of 5.2 and collecting cases  
 26 with substantially higher multipliers); *Beckman v. KeyBank, N.A.*, 293 F.R.D. 467, 481 (S.D.N.Y.  
 27 2013) (“Courts regularly award lodestar multipliers of up to eight times the lodestar, and in some  
 28 cases, even higher multipliers.”) (citing *Vizcaino*, 290 F.3d at 1052–54).

Application of the lodestar multiplier cross-check thus further supports the reasonableness of Class Counsel's requested fee.

**B. The Requested Reimbursement of Expenses is Reasonable and Appropriate**

Class Counsel also are entitled to reimbursement of reasonable out-of-pocket costs advanced for the Class. *See Fed. R. Civ. P. 23(h); 18 U.S.C. § 2520(b)(3); Paul, Johnson*, 886 F.2d at 271. Class Counsel and the other law firms representing Plaintiffs in this action have incurred total out-of-pocket expenses of \$115,920.21. (Joint Declaration, ¶¶ 77–78, Ex. D.) Significant costs included, *inter alia*, consultant fees, mediation charges, and other customary litigation expenses. (*Id.*, ¶ 78, Ex. D.) Payment of these expenses was necessary to advance, and ultimately, to resolve this litigation. *See also In re Media Vision Tech. Sec. Litig.*, 913 F. Supp. 1362, 1367–72 (N.D. Cal. 1996) (costs related to retention of experts, photocopy costs, postage, telephone costs, computerized legal research fees, and filing fees are appropriate to reimburse).

**C. The Requested Service Awards Are Reasonable and Appropriate**

Class Counsel seek Service Awards of \$5,000 for each of the eleven Plaintiffs named in the CAC, for a total of \$55,000. “[N]amed plaintiffs, as opposed to designated class members who are not named plaintiffs, are eligible for reasonable incentive payments.” *Staton*, 327 F.3d at 977; *Rodriguez v. W. Publ'g Corp.*, 563 F.3d 948, 958 (9th Cir. 2009) (service awards “are fairly typical in class action cases”). Such awards are “intended to compensate class representatives for work done on behalf of the class [and] make up for financial or reputational risk undertaken in bringing the action.” *Id.* “The Ninth Circuit has repeatedly held that \$5,000 is a reasonable amount for an incentive award.” *Congdon v. Uber Techs., Inc.*, No. 16-02499, 2019 WL 2327922, at \*9 (N.D. Cal. May 31, 2019) (collecting cases); *Fowler v. Wells Fargo Bank*, No. 17-02092, 2019 WL 330910, at \*8 (N.D. Cal. Jan. 25, 2019) (same).

The requested Service Awards of \$5,000 for each of eleven Class Representatives are reasonable and appropriate here. First, the Class Representatives have expended substantial time and effort in assisting Class Counsel with the prosecution of the Class’s claims, including by describing the details of their use of various fintech apps and interaction with the Plaid Link interface; by searching for, reviewing and providing documents and information relevant to the

1 case; by preserving relevant documentation and evidence for discovery; and by staying abreast of  
 2 events in the litigation and providing their opinions on the proposed settlement. (See Joint Decl.,  
 3 Ex. E.)

4 Second, the Class Representatives should be rewarded for their “public service of  
 5 contributing to the enforcement of mandatory laws.” *Sullivan v. DB Invs., Inc.*, 667 F.3d 273, 333  
 6 n.65 (3d Cir. 2011) (citation and quotation omitted). Without the Class Representatives’  
 7 willingness to take on the burdens associated with filing and prosecuting this action, no recovery  
 8 would have been possible. Because the Class Representatives came forward to assert rights that  
 9 are common to all Class members, Plaid has committed to pay a total of \$58,000,000 and agreed  
 10 to injunctive relief tailored to remediate the wrongs complained of in this lawsuit, as well as to  
 11 enhance the privacy protections of every member of the Class as well as users of fintech apps  
 12 generally.

13 Third, the requested service awards are appropriate when compared to the recovery  
 14 achieved. In assessing the reasonableness of a request for service awards, the Court may compare  
 15 the request against the size of the settlement fund. *See, e.g., Mego*, 213 F.3d at 457 (approving  
 16 incentive awards of \$5,000 each to two class representatives in \$1.725 million settlement, which  
 17 collectively comprised 0.56% of total settlement); *In re: High-tech Emp. Antitrust Litig.*, No. 11-  
 18 2509, 2014 WL 10520478, at \*3 (N.D. Cal. May 16, 2014) (approving “modest” service awards  
 19 that represented 0.4% of recovery); *Anthem*, 2018 WL 3960068, at \*31 (0.52% of recovery); *see also Rhom v. Thumbtack, Inc.*, No. 16-02008, 2017 WL 4642409, at \*8 (N.D. Cal. Oct. 17, 2017)  
 21 (“A \$5,000 award also equals approximately 1-2% of the total settlement fund, which is  
 22 consistent with other court-approved enhancements.”). Here, the requested Service Awards,  
 23 totaling \$55,000, collectively represent 0.09% of the \$58,000,000 Settlement Fund. Plaintiffs’  
 24 request is reasonable and appropriate.

25 **IV. CONCLUSION**

26 For the reasons set forth above, Plaintiffs respectfully request that the Court grant this  
 27 motion in its entirety, and award (1) attorneys’ fees to Class Counsel in the amount of  
 28 \$14,500,000; (2) reimbursement of litigation expenses of \$115,920.21; and (3) Service Awards of

1 \$5,000 for each of the Class Representatives, for a total of \$55,000.  
2  
3

Dated: January 28, 2022

Respectfully submitted,

4 HERRERA KENNEDY LLP

5 By: /s/ Shawn Kennedy

6 Shawn M. Kennedy

7 Shawn M. Kennedy (SBN 218472)  
skennedy@herrerakennedy.com  
8 Bret D. Hembd (SBN 272826)  
bhembd@herrerakennedy.com  
9 4590 MacArthur Blvd., Suite 500  
Newport Beach, CA 92660  
Telephone: (949) 936-0900  
Fax: (855) 969-2050  
10  
11

12 HERRERA KENNEDY LLP  
13 Nicomedes Sy Herrera (SBN 275332)  
nhererra@herrerakennedy.com  
14 Laura E. Seidl (SBN 269891)  
lseidl@herrerakennedy.com  
15 1300 Clay Street, Suite 600  
Oakland, CA 94612  
16 Telephone: (510) 422-4700  
Fax: (855) 969-2050  
17

18 By: /s/ Rachel Geman

19 Rachel Geman

20 LIEEFF CABRASER HEIMANN &  
BERNSTEIN, LLP  
21 Rachel Geman (*Pro Hac Vice*)  
rgeman@lchb.com  
22 250 Hudson Street, 8th Floor  
New York, NY 10013-1413  
23 Tel: (212) 355-9500  
24 Fax: (212) 355-9592  
25  
26  
27  
28

1 LIEFF CABRASER HEIMANN &  
2 BERNSTEIN, LLP  
3 Michael W. Sobol (SBN 194857)  
msobol@lchb.com  
4 Melissa Gardner (SBN 289096)  
mgardner@lchb.com  
5 Michael K. Sheen (SBN 288284)  
msheen@lchb.com  
6 Nicholas R. Hartmann (SBN 301049)  
nhartmann@lchb.com  
7 275 Battery Street, 29th Floor  
San Francisco, CA 94111-3339  
8 Tel: (415) 956-1000  
Fax: (415) 956-1008  
9

10 BURNS CHAREST LLP

11 By: /s/ Christopher Cormier  
Christopher J. Cormier

12 Christopher J. Cormier (*Pro Hac Vice*)  
13 ccormier@burnscharest.com  
14 4725 Wisconsin Avenue, NW  
Washington, DC 20016  
15 Tel: (202) 577-3977  
Fax: (469) 444-5002  
16

17 BURNS CHAREST LLP  
Warren T. Burns (*Pro Hac Vice*)  
18 wburns@burnscharest.com  
900 Jackson Street, Suite 500  
19 Dallas, TX 75202  
Tel: (469) 904-4550  
20 Fax: (469) 444-5002  
21

*Co-Lead Class Counsel*

22  
23  
24  
25  
26  
27  
28